



# Procedure

## Legislative compliance

### Audience

Version effective : 20/04/2020  
Version: 3.2

Department-wide

### Purpose

This procedure provides general guidance on legislative compliance responsibilities to ensure that the Director-General, as the accountable officer, can be satisfied that all measures are being taken across the department to actively comply with all relevant legislation and other applicable standards.

### Overview

This procedure identifies legislation for which the department has compliance responsibility, assigns primary responsibility for ensuring compliance with each Act and provides a process for reporting on legislative compliance, including broad criteria to be followed where any breach of legislative requirements may have occurred.

This procedure provides a broad, overarching framework and is intended to be read subject to specific compliance and reporting requirements. It is one element of the department's corporate governance arrangements and is intended to complement existing processes and procedures.

The [Key Compliance Area by Responsible Area](#) (the schedule) indicates the area of the agency with primary responsibility for ensuring compliance with each piece of legislation. In some cases, responsibility is shared by more than one part of the agency. The EMB member of the area in question is nominated as the Responsible Officer. Responsible Officers will ensure that the Director-General is able to meet the requirements of an accountable officer in relation to legislative compliance.

### Responsibilities

#### Director-General / Chief Executive Officer

- is the accountable officer in relation to legislative compliance.

#### Executive Management Board (EMB) members

- are the responsible officers in relation to legislative compliance

- are responsible, supported by the responsible areas nominated in the schedule, for ensuring that the department is compliant with the requirements of legislation and relevant regulations and standards in their area. These responsibilities are incorporated into the relevant officer's performance agreement with the Director-General
- ensure that staff administering legislation are fully aware of their roles and responsibilities, including any duties and obligations arising under any formal delegation of legislative powers and responsibilities
- ensure that appropriate remedial action is taken to address instances of reportable non-compliance
- maintain appropriate systems or processes for recording instances of reportable non-compliance
- escalate issues involving reportable non-compliance to the Director-General, where this is appropriate given the scale or frequency of any reportable non-compliance
- establish processes to identify changed compliance requirements arising from new legislation or legislative amendments
- liaise with Internal Audit and the Queensland Audit Office in relation to compliance issues.

### Internal Audit

- maintains a rolling schedule of legislative compliance audits across the department
- reports to the Director-General results of these audits, including details of recommended remedial actions.

### Audit and Risk Management Committee

- ensure risks relating to legislative compliance are incorporated in risk management advice provided to the EMB.

### Governance, Strategy and Planning Branch

- reviews this policy annually to ensure an up-to-date version of this policy, including the legislation schedules.

### Legal and Administrative Law Branch

- provides legal advice across the department with respect to legislative compliance as requested.

### Legislative Services Unit

- undertakes all legislative projects which also address compliance issues.

## Process

### Legislative responsibilities

1. This procedure relates to compliance of Queensland legislation outlined in the [Key Compliance Area by Responsible Area](#) (the schedule).
2. The schedule indicates the area of the agency with primary responsibility for ensuring compliance with each piece of legislation. In some cases, responsibility is shared by more than one part of the agency.
3. Responsible officers will ensure that the Director-General is able to meet the requirements of an accountable officer in relation to legislative compliance.



## Reporting a breach

4. Any officer who becomes aware that a statutory responsibility or obligation may have been breached, should:
  - report the breach to their manager or supervisor
  - consult with their manager or supervisor to determine whether the breach constitutes reportable non-compliance.
5. Any officer, their manager or supervisor who considers that an incident of reportable non-compliance has occurred, should immediately report the matter to the responsible officer together with details of recommended remedial action.
6. If the manager or supervisor is not sure whether any particular breach constitutes reportable non-compliance, they should assume that it is.
7. If the breach is not a reportable non-compliance they should:
  - seek advice from the Legal and Administrative Law Branch as necessary
  - take any steps to remedy the potential breach as soon as practicable as agreed with the manager or supervisor.

## Existing procedures

8. The requirements imposed by this section must be read subject to any existing documented processes or procedures for the reporting of legislative non-compliance.

## Definitions

<b>Accountable officer</b>	The Director-General of the Department of Education
<b>Appropriate systems or processes for recording instances of reportable non-compliance</b>	Maintaining a retrievable record of instances of reportable non-compliance and the remedial action that is taken to address it
<b>Compliance and reporting requirements</b>	Requirements that relate to compliance with legislative requirements and reporting responsibilities that must be undertaken to address these requirements
<b>Delegation of legislative powers and responsibilities</b>	A delegation made under a statutory instrument (i.e. an Act or Regulation passed by Parliament)
<b>Departmental service delivery</b>	Activities undertaken by the department to address its strategic and operational roles and functions
<b>Departmental-specific legislation</b>	Includes significant pieces of legislation that govern departmental service delivery listed under the heading 'Acts Administered' in the current <a href="#">Administrative Arrangements Order</a> . This includes relevant provisions of statutory authority

	legislation (e.g. provisions conferring responsibility on the department as an administering agency)
<b>General legislation</b>	Includes key pieces of Queensland legislation that: <ul style="list-style-type: none"> <li>• provide for a high performing, responsive, professional public service</li> <li>• promote the effectiveness and efficiency of government entities; and/or</li> <li>• provide for the administration, employment and management of public service employees</li> </ul>
<b>Legislative compliance processes</b>	Processes that are undertaken to enable compliance with legislative requirements
<b>Legislative projects</b>	Projects undertaken by the department that relate to legislative review, development and/or reform
<b>Legislative compliance responsibilities</b>	Responsibilities that must be addressed to enable compliance with legislative requirements
<b>Non reportable non-compliance</b>	A breach of any statutory responsibility or obligation that is minor, technical or temporary in nature
<b>Performance Agreement</b>	An agreement between the Director-General and responsible officer which specifies responsibilities and goals for the period of the agreement (e.g. financial year)
<b>Remedial action</b>	A change made to address a deficiency in compliance with legislative requirements
<b>Reportable non-compliance</b>	A breach of any statutory responsibility or obligation that cannot be considered minor, technical or temporary in nature
<b>Responsible officer</b>	A member of the Executive Management Board (EMB)

## Legislation

- [Constitution of Queensland 2001 \(Qld\)- Part 5](#)
- [Acts Interpretation Act 1954 \(Qld\) – Part 7](#)
- [Administrative Arrangements Order](#)

## Delegations/Authorisations

- Nil

## Related policies

- Nil



## Related procedures

- [Managing delegations, authorisations and administrative approvals](#)

## Guidelines

- Nil

## Supporting information/websites

- [Key Compliance Area by Responsible Area](#)

## Contact

For further information, please contact:

Governance, Strategy and Planning

Email: [gsp@qed.qld.gov.au](mailto:gsp@qed.qld.gov.au)

## Review date

09/03/2013

## Superseded versions

*Previous seven years shown. Minor version updates not included.*

3.0 Legislative Compliance

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